

TO: Chairman and Members

DATE: September 12, 2013

**SUBJECT: Outside Legal Counsel review
of the Justice Assistance Grant (JAG)
Process utilized by the Board of State
and Community Corrections**

AGENDA ITEM: J

**ACTION:
INFORMATION: X**

RESOURCE PERSON: Curtis J. Hill

Summary:

On July 22, 2013, the Board of State and Community Corrections convened to discuss and to take action with the development of the JAG four-year strategy plan and to decide how to distribute this funding. Prior to any discussion or action by the Board, legal counsel, advised the Board that it should utilize the Rule of Necessity based on financial conflict of interest for members that receive government salary and whose department may apply for funding. The Rule of Necessity allowed the Board to randomly select from a pool of conflicted members to establish a quorum (seven members) when there are not sufficient non-conflicted members. The Board randomly selected six members from a pool of nine conflicted members to establish a quorum with one non-conflicted member. The Board took action but was not able to finalize all of their recommendations and the Board subsequently met on August 8, 2013 to conclude this agenda item. At the August 8th meeting, the Board requested that outside legal counsel review the process (the Rule of Necessity) that was invoked and to provide the Board with their legal analysis.

Background:

In response to the Board's request for a legal review from outside counsel, the BSCC received approval from the Office of the Attorney General (OAG) to consult and use outside legal counsel based on a potential conflict of interest that the OAG has in providing legal counsel to the BSCC related to the JAG funds. BSCC staff contacted the law firm of Best, Best and Krieger to ask for their assistance to review the Rule of Necessity and how the Board utilized it while following the advice of legal counsel while approving the JAG four year strategy and distributing these funds.

The law firm has provided a memo to the Board (see attachment J-1) and they will prepare a more in depth legal analysis to the BSCC Board at the November 14, 2013 meeting being held in Sacramento, CA.

Recommendation/Action Needed:

Information Only